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10/698,391	11/03/2003	Osamu Otsuka	DP-977 US	2731

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EXAMINER	
PHAM, TUAN	

ART UNIT	PAPER NUMBER
2618	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/698,391	OTSUKA, OSAMU	
	Examiner	Art Unit	
	TUAN A. PHAM	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 June 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14 and 19-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-10* is/are allowed.

6)☒ Claim(s) *11-14 and 19-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 11-14, and 19-21 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 11-14, and 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Padovani et al. (Pub. No.: 2003/0063583, hereinafter, "Padovani") in view of Gringeri et al. (US Patent No.: 6,233,226, hereinafter, "Gringeri").

Regarding claim 11, a transmission rate controlling method of mobile radio equipment for controlling a rate of radio data transmission between mobile radio equipment and a base station, the method comprising (see figure 2, base station 4, mobile 6, [0078]):

a decoding step for decoding encoded data (see figure 2, decoder 66, [0078]);

a judging step for judging the transmission rate (see [0078]) ; and

a transmission controlling step for controlling the rate of transmission to/from a base station based on a judgment made at the judging step (see figure 2, [0078], it is

clearly seen that the mobile 6 measure and adjust the C/I and send the indication to the base station to increase or decrease the data rate).

It should be noticed that Padovani fails to teach judging whether or not decoding has been performed in time and controlling the rate of transmission if determine that the decoding has not been performed in time. However, Gringeri teaches judging whether or not decoding has been performed in time and controlling the rate of transmission if determine that the decoding has not been performed in time (see figure 4, col.7, ln.1-13, it is clearly seen that the controller will control the decoder buffer perform in time or not, if the decoder buffer overflow, the decoder buffer will delay to process the video frame, and the system will adjust transmission rate to prevent the decoder buffer overflow).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Gringeri into view of Padovani in order to provide a low cost and video quality as suggested by Gringeri at col.5, ln.5-9.

Regarding claim 12, a transmission rate controlling method of mobile radio equipment for controlling a rate of radio data transmission between mobile radio equipment and a base station, the method comprising (see figure 2, base station 4, mobile 6, [0078]):

a decoding step for decoding encoded data according to the encoded data input into a decoder (see figure 2, decoder 66, [0078]);

a judging step for judging the transmission rate (see [0078]) ;

a transmission controlling step for controlling the rate of transmission to/from a base station based on a judgment made at the judging step (see figure 2, [0078], it is clearly seen that the mobile 6 measure and adjust the C/I and send the indication to the base station to increase or decrease the data rate), and

an inputting/outputting step for inputting/outputting the decoded data output from the decoder in a format suitable for the input data (see figure 2, decoder 66 receive input from DEMOD 64 and output to DATA SINK 68).

It should be noticed that Padovani fails to teach judging whether or not decoding has been performed in time and controlling the rate of transmission if determine that the decoding has not been performed in time. However, Gringeri teaches judging whether or not decoding has been performed in time and controlling the rate of transmission if determine that the decoding has not been performed in time (see figure 4, col.7, ln.1-13, it is clearly seen that the controller will control the decoder buffer perform in time or not, if the decoder buffer overflow, the decoder buffer will delay to process the video frame, and the system will adjust transmission rate to prevent the decoder buffer overflow).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Gringeri into view of Padovani in order to provide a low cost and video quality as suggested by Gringeri at col.5, ln.5-9.

Regarding claim 13, a transmission rate controlling method of mobile radio equipment for controlling a rate of radio data transmission between mobile radio

equipment and a base station, the method comprising (see figure 2, base station 4, mobile 6, [0078]):

a decoding step for decoding encoded data according to the encoded data input into a decoder (see figure 2, decoder 66, [0078]);

a judging step for judging the transmission rate (see [0078]) ;

a transmission controlling step for controlling the rate of transmission to/from a base station based on a judgment made at the judging step (see figure 2, [0078], it is clearly seen that the mobile 6 measure and adjust the C/I and send the indication to the base station to increase or decrease the data rate), and

an inputting/outputting step for inputting/outputting the decoded data output from the decoder in a format suitable for the input data (see figure 2, decoder 66 receive input from DEMOD 64 and output to DATA SINK 68).

It should be noticed that Padovani fails to teach a detecting step for detecting whether or not the decoding result is normal, judging whether or not decoding has been performed in time and controlling the rate of transmission if determine that the decoding has not been performed in time. However, Gringeri teaches a detecting step for detecting whether or not the decoding result is normal (detect the decoder buffer is not overflow, col.7, ln.1-13), judging whether or not decoding has been performed in time and controlling the rate of transmission if determine that the decoding has not been performed in time (see figure 4, col.7, ln.1-13, it is clearly seen that the controller will control the decoder buffer perform in time or not, if the decoder buffer overflow, the

decoder buffer will delay to process the video frame, and the system will adjust transmission rate to prevent the decoder buffer overflow).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Gringeri into view of Padovani in order to provide a low cost and video quality as suggested by Gringeri at col.5, ln.5-9.

Regarding claim 14, a transmission rate controlling method of mobile radio equipment for controlling a rate of radio data transmission between mobile radio equipment and a base station, the method comprising (see figure 2, base station 4, mobile 6, [0078]):

a decoding step for decoding encoded data according to the encoded data input into a decoder (see figure 2, decoder 66, [0078]);

a judging step for judging the transmission rate (see [0078]) ;

a transmission controlling step for controlling the rate of transmission to/from a base station based on a judgment made at the judging step (see figure 2, [0078], it is clearly seen that the mobile 6 measure and adjust the C/I and send the indication to the base station to increase or decrease the data rate), and

an inputting/outputting step for inputting/outputting the decoded data output from the decoder in a format suitable for the input data (see figure 2, decoder 66 receive input from DEMOD 64 and output to DATA SINK 68).

It should be noticed that Padovani fails to teach a detecting step for detecting whether or not the decoding result is normal, judging whether or not decoding has been

performed in time and controlling the rate of transmission if determine that the decoding has not been performed in time. However, Gringeri teaches a detecting step for detecting whether or not the decoding result is normal (detect the decoder buffer is not overflow, col.7, ln.1-13), judging whether or not decoding has been performed in time and controlling the rate of transmission if determine that the decoding has not been performed in time (see figure 4, col.7, ln.1-13, it is clearly seen that the controller will control the decoder buffer perform in time or not, if the decoder buffer overflow, the decoder buffer will delay to process the video frame, and the system will adjust transmission rate to prevent the decoder buffer overflow).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Gringeri into view of Padovani in order to provide a low cost and video quality as suggested by Gringeri at col.5, ln.5-9.

Regarding claims 19-22, Padovani further teaches the a process of requesting the base station to reduce the data transmission rate when the load data exceeds the threshold value at the comparing step, and a process of requesting the base station to increase the data transmission rate when the load data is below the threshold value (see [0078], it is clearly seen that the base station compare the C/I with the threshold in order to control the transmission rate).

Regarding claims 23-26, Gringeri further teaches the judging step for judging whether or not decoding has been performed in time comprises judging whether or not decoding has been performed without delay (see col.7, ln.1-13, it is clearly seen that

when buffer is overflow and will not receive any more data so that it will delay the process).

Allowable Subject Matter

4. Claims 1-10 are allowed.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A. Pham whose telephone number is (571) 272-8097. The examiner can normally be reached on Monday through Friday, 8:30 AM-5:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Matthew Anderson can be reached on (571) 272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have question on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/TUAN A PHAM/
Examiner, Art Unit 2618

Tuan Pham